

**MCKINLEY COUNTY DWI TASK FORCE
DWI TRAFFIC ENFORCEMENT SERVICES
SUB-GRANT AGREEMENT**

THIS SUB-GRANT AGREEMENT made and entered into by and between McKinley County, hereinafter referred to as the "COUNTY," Post Office Box 70, Gallup, New Mexico, 87305 and the Gallup Police Department – City of Gallup, hereinafter referred to as "SUB-GRANTEE," 451 State Road 564, Gallup, New Mexico, 87301.

WHEREAS, the COUNTY and SUB-GRANTEE are each charged with protecting the health, safety and welfare of the citizens of McKinley County, New Mexico;

WHEREAS, DWI-related traffic offenses significantly threaten the health, safety and welfare of the citizens of McKinley County, New Mexico;

WHEREAS, the COUNTY is responsible for administering the McKinley County DWI Task Force Grant Fund, which provides funds for DWI traffic enforcement services;

WHEREAS, the SUB-GRANTEE is a qualified law enforcement agency that provides DWI traffic enforcement services; and

WHEREAS, the COUNTY and SUB-GRANTEE recognize that consistent implementation of DWI traffic enforcement services by the McKinley County Sherriff's Department, Navajo Nation Police Department, New Mexico Department of Public Safety, New Mexico 11th Judicial District Attorney's Office, Ramah Navajo Police Department, City of Gallup Police Department and the Zuni Police Department; the SUB-GRANTEE, and other law enforcement agencies has been effective in helping combat DWI-related traffic fatalities and injuries;

NOW, THEREFORE, the parties hereto do mutually agree as follows:

SECTION ONE – PROJECT PURPOSE AND CONDITIONS:

The purpose of this AGREEMENT is to provide funding from the McKinley County DWI Task Force Grant to the SUB-GRANTEE to implement Driving While Impaired (DWI) sobriety checkpoints and saturation patrols aimed at reducing alcohol-related crashes, injuries, and deaths in McKinley County. The SUB-GRANTEE shall comply with all provisions and conditions of this Agreement including the Traffic Safety Bureau Project Management and Accounting Procedures Manual, the State Procurement Code, NMSA 1978, Sections 13-1-28 to Sections 13-1-199 and the National Highway Traffic Safety Administration Grants Management Manual.

SECTION TWO – PROJECT FUNDING:

1. The total estimated cost for the project pursuant to this AGREEMENT is \$48,000.00 in McKinley County DWI Task Force Funds.
2. The project budget is itemized as follows:

Personal Services	\$48,000.00
Contractual Services	\$0.00
Commodities	\$0.00
<u>Indirect Costs</u>	<u>\$0.00</u>
TOTAL	\$48,000.00

3. The parties agree that any unexpended surplus funds from this grant shall revert to the COUNTY.

SECTION THREE – PROGRAM SCOPE OF WORK:

A. MISSION:

To provide a seamless transportation system that safely and efficiently moves people and supports a growing economy.

The Traffic Safety Bureau is committed to preventing injuries and saving lives by eliminating crashes on New Mexico public roadways. *¡Sí Se Puede!*

B. PROGRAM SERVICES:

1. Provide for joint police agency participation in sobriety checkpoints and saturation patrols in McKinley County that are conducted in accordance with state and federal court rulings, specifically City of Las Cruces v. Betancourt at 735 P2nd 1161, as well as the Sobriety Checkpoint Manual, the Traffic Safety Bureau’s (TSB) Project Management and Procedure Manual, and applicable Federal regulations.
2. Participating agencies are as follows:
 - City of Gallup Police Department
 - New Mexico Department of Public Safety: NMSP & MTPD
 - McKinley County Sheriff’s Office
 - Navajo Nation Police Department
 - Zuni Police Department
 - Ramah Navajo Police Department
3. The hours and days participating officers may patrol are as follows:
 - 1200 hours (12:00 pm) Sunday to 0400 hours (4:00 am) Monday
 - 1200 hours (12:00 pm) Monday to 0400 hours (4:00 am) Tuesday
 - 1200 hours (12:00 pm) Tuesday to 0400 hours (4:00 am) Wednesday
 - 1200 hours (12:00 pm) Wednesday to 0400 hours (4:00 am) Thursday

- 1200 hours (12:00 pm) Thursday to 0400 hours (4:00 am) Friday
 - 1200 hours (12:00 pm) Friday to 0400 hours (4:00 am) Saturday
 - 1200 hours (12:00 pm) Saturday to 0400 hours (4:00 am) Sunday
4. Officers must patrol for a minimum of six hours, up to 10 hours on any given night and officers may start their patrol anytime between 12:00 pm and 4:00 am on any given night. Saturation patrol blocks will be in six, eight, or ten hour blocks. Adjust hours pursuant to subparagraph 7 below.
 5. Officers may patrol independently or in groups. Groups of officers may consist of officers from different agencies or officers from the same agency. Officers may coordinate with each other so that they patrol at the same time, but not necessarily in the same area of McKinley County.
 - The Task Force Supervisor will issue quarterly operational areas, but as crash stats and needs of the county change, the operational areas will also change. The operational patrols will be used as suggested patrol areas.
 6. Officers working the grant will only be paid for two types of activities:
 - Actively patrolling within McKinley County, New Mexico; keeping in mind the following indicators.
The Department (NMDOT) has implemented performance indicators on Department funded law enforcement projects. The performance indicators are as follows:
 1. Large Agency (Populations above 100,000) – 1 DWI in 28 hours
 2. Medium Agency (Populations 50,000 – 99,000) – 1 DWI in 32 hours
 3. Small Agency Populations below 50,000) – 1 DWI in 36 hours
 - Completing arrest/booking paperwork or procedures for an arrest that was made during task force patrol activities; this must be an arrest that the claiming officer made while patrolling for the purpose of preventing and/or detecting alcohol-related traffic crimes; officers will not be paid grant money to assist other officers with arrest/booking paperwork or procedures related to another officer's arrest
 7. Officer will not be paid for the following:
 - Officers will not be paid for anytime spent outside McKinley County, unless the exigencies of an alcohol-related incident (such as a DWI-related pursuit) requires them to temporarily leave the county limits.
 - Officers will not be paid for travel time. If an officer wishes to drive to a certain area of McKinley County to patrol, the officer shall count that drive time within McKinley County as patrol time. During the drive, the officer will remain alert for traffic violations and shall stop for any violations that indicate the driver may be impaired.
 - Officers will not be paid for crash investigations, calls for service unrelated to the purposes of this grant, or assists to other officers with other officers' arrests. If a claiming officer, while patrolling, needs to handle an unrelated call or assist

another officer for a significant amount of time, the claiming officer shall consider his grant overtime activity to have ended, and he/she shall claim the time under another source.

- Officers shall not be paid for any time after 4 a.m., unless they are working on arrest/booking paperwork and procedures from an arrest made by the claiming officer. The arrest must be related to a traffic stop or incident that began before 4 a.m. If the traffic stop or incident was made after 4 a.m., the officer shall claim the time under another source.
8. After each DWI Task Force Activity, officers shall fill out an activity form and turn it in to their immediate supervisor within 48 hours of the end of the patrol.
 - Each participating agency shall, on a weekly basis, provide the McKinley County Task Force Supervisor with copies of the activity sheets.
 - Each participating agency shall charge state statute unless within Tribal Jurisdiction.
 9. If an officer attempts to claim hours or activities that are not allowed by the above requirements, that officer may be banned from working the grant for the rest of the grant year.
 10. Experience and crash data show that DWI crashes can occur in any part of McKinley County. Officers may therefore patrol in any part of the county. Supervisors of each participating agency may order officers to patrol in certain areas if there is recent crash data indicating a trend of DWI-related crashes in a particular geographic area.

C. PERFORMANCE GOALS (statewide): At the state level:

1. Reduce the number of alcohol-related fatalities involving driver/motorcycle operators.
2. Reduce the percent of alcohol-related fatalities among all traffic crash fatalities.
3. Reduce the alcohol-involved traffic fatality rate.
4. Reduce the alcohol-involved fatal crash rate.
5. Reduce the alcohol-involved serious injury crash rate.

Local Goals:

1. Reduce the number of alcohol-involved crash fatalities in McKinley County and New Mexico areas of the Navajo Nation.
2. Continue to influence a reduction in alcohol-involved crash fatalities in McKinley County and New Mexico areas of the Navajo Nation.

D. ACTIVITIES: The SUB-GRANTEE shall:

1. The SUB-GRANTEE shall conduct activities in a manner consistent with TSB's Project Management and Accounting Procedures Manual.

E. TRAINING:

1. Participating enforcement officers must have and maintain law enforcement certifications in all areas necessary to conduct checkpoint and saturation patrol activities. It is recommended that all officers working checkpoints be certified in Standardized Field Sobriety Testing (SFST). Individuals administering field sobriety testing shall be required to be certified in SFST training or have taken a SFST refresher course within the last 2 years or will take a refresher course in FY20. SFST training will be offered by the Traffic Safety Bureau upon request on a regional basis.

F. EVALUATION:

1. Provide COUNTY with required monthly reports to reflect all stats from participation in the McKinley County DWI Task Force. To include number of citations broken down by type of citations, number of man hours, number of arrests made, etc. Reports will be due on 5th of the following month.
3. Submit the final reimbursement claim on or before October 15th, 2020.
4. Conduct the number of negotiated checkpoints and saturation patrols.

SECTION FOUR - ACCOUNTABILITY OF RECEIPTS & DISBURSEMENTS:

There shall be strict accountability for all receipts and disbursements relating hereto. The SUB-GRANTEE shall maintain all books, documents, papers, accounting records, data and other documentation pertaining to costs incurred and to make such materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. The SUB-GRANTEE shall furnish the COUNTY or State Auditor, upon demand, any and all such records relevant to this AGREEMENT and allow them the right to audit all records, which support the terms of this AGREEMENT. If an audit finding determines that specific funding use was inappropriate or not related to the project, the SUB-GRANTEE shall reimburse that portion to the COUNTY within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expenses supported by such insufficient documentation shall be reimbursed to the COUNTY within 30 days.

SECTION FIVE - PROJECT RESPONSIBILITY:

Completing the terms of this Project is the SUB-GRANTEE'S sole responsibility and nothing herein is intended to give the COUNTY any responsibility for the Project other than as set forth in this AGREEMENT.

SECTION SIX - AUTHORIZATION OF EXPENDITURES:

The terms of this AGREEMENT are contingent upon sufficient appropriations and authorizations being made by the Congress of the United States if federal funds are involved, or the State Legislature if State funds involved, for performance of this AGREEMENT. If sufficient appropriations and authorizations are not made, this AGREEMENT shall terminate upon written notice being given by the COUNTY to the SUB-GRANTEE. The COUNTY is expressly not committed to expenditure of any funds until such time as they are programmed,

budgeted, encumbered, and approved for expenditure by the COUNTY. The COUNTY'S decision as to whether its funds are sufficient for fulfillment of the AGREEMENT shall be final.

SECTION SEVEN - TERMS OF THE AGREEMENT:

This AGREEMENT constitutes the entire agreement between the parties. Any claimed covenant, term, condition, warranty or promise of performance not expressly included in this document or its amendments, is not part of this AGREEMENT and not enforceable pursuant to this AGREEMENT. Performance of all duties and obligations herein shall conform with and shall not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

SECTION EIGHT – THIRD-PARTY BENEFICIARY CLAUSE:

No provision of this AGREEMENT creates in the public, or any member thereof, a third-party beneficiary or to authorize anyone not a party to the AGREEMENT to maintain a suit for wrongful death, bodily and/or personal injury to person, damage to property, and/or any other claim(s) whatsoever pursuant to the provision of this AGREEMENT.

SECTION NINE - NEW MEXICO TORT CLAIMS ACT:

No provision of this AGREEMENT establishes any waiver of immunity from liability for alleged tortious conduct of any employee of the COUNTY or the SUB-GRANTEE arising from the performance of this AGREEMENT apart from that set forth in the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, and et seq., as amended.

SECTION TEN - SEVERABILITY:

In the event that any portion of this AGREEMENT is determined to be void, unconstitutional or otherwise unenforceable; the remainder of this AGREEMENT shall remain in full force and effect.

SECTION ELEVEN - AMENDMENT:

This AGREEMENT shall not be altered, modified, or amended except by an instrument in writing and executed by the parties hereto.

SECTION TWELVE - REIMBURSEMENT:

1. Funds expended by the SUB-GRANTEE for the purposes stated in Section Three – Program Scope of Work shall be reimbursed by the COUNTY to the SUB-GRANTEE. The COUNTY shall not reimburse the SUB-GRANTEE for any costs incurred prior to the full execution of the AGREEMENT, after the expiration of the AGREEMENT, or in excess of the maximum dollar amount of the AGREEMENT,

unless the maximum dollar amount is duly amended prior to incurring cost for services or deliverables.

2. Claims for reimbursement must be fully completed and submitted in invoice form monthly on the 5th day of the month following the expenditure for which reimbursement is sought. Invoices must at least include detailed description of the services rendered, the amount expended, and a copy of each approved overtime slip, warrant and activity sheet for each officer participating in operations pursuant to this AGREEMENT.
3. Reimbursement requests require the designee's original signature.
4. Supporting documentation for reimbursement requests will be maintained at the SUB-GRANTEE's agency for monitoring purposes and be available upon the COUNTY's request for three (3) years after the expiration date of this Agreement.
5. Documentation as outlined in the Traffic Safety Bureau's Project Management and Accounting Procedures Manual must be retained in the SUB-GRANTEE'S files.
6. Should SUB-GRANTEE fail to invoice COUNTY in a timely manner to include all of the documentation listed above, COUNTY will have no obligation to honor such invoice. The final reimbursement request must be submitted by October 15, 2020. Requests submitted after October 15, 2020 may not be reimbursed.

SECTION THIRTEEN - EFFECTIVE DATE & TERMINATION:

- A. This AGREEMENT is effective October 03, 2019 upon signature of both parties.
- B. This AGREEMENT shall terminate September 30, 2020 or upon expenditure of the full amount of the grant funds. Neither party shall have any obligation to continue to deliver services or pay compensation for services rendered under this AGREEMENT after said date.
- C. This AGREEMENT may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days in advance. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In any event, this agreement shall be in effect until completed, unless terminated early pursuant to this AGREEMENT.

SECTION FOURTEEN - EQUAL OPPORTUNITY COMPLIANCE:

The SUB-GRANTEE agrees to abide by all Federal and State Laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the SUB-GRANTEE agrees to assure that no person in the United States shall, on the grounds of race, religion, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this AGREEMENT. If the SUB-GRANTEE is found to be not in compliance with these requirements during the life of this AGREEMENT, the SUB-GRANTEE agrees to take appropriate steps to correct these deficiencies.

SECTION FIFTEEN - CIVIL RIGHTS LAWS AND REGULATIONS COMPLIANCE:

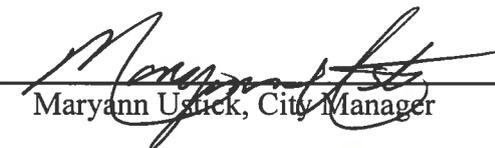
The COUNTY and SUB-GRANTEE shall comply with all federal, state, and local laws and ordinances applicable to the work called for herein. The COUNTY and SUB-GRANTEE further agree to operate under and be controlled by Title VI, and Title VII of the Civil Rights Act of 1964, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the Environmental Justice Act of 1994, the Civil Rights Restoration Act of 1987, the New Mexico Human Rights act, and Executive Order No. 11246 entitled "Equal Employment Opportunity", as amended by Executive Order No. 11375, and as supplemented by the Department of Labor Regulations (41 CFR Part 60). Accordingly, 49 CFR 21 is applicable to this AGREEMENT and is incorporated herein by reference.

SECTION SIXTEEN - CERTIFICATIONS AND ASSURANCES:

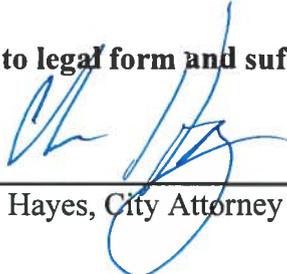
Where this AGREEMENT involves federal funds the SUB-GRANTEE shall comply with all applicable Certifications and Assurances set forth in the current New Mexico Highway Safety Performance Plan.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT.

City of Gallup (Gallup Police Department)

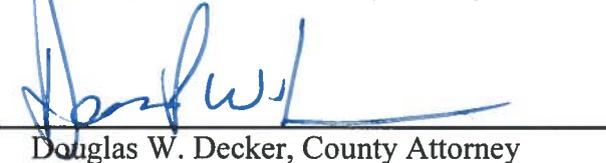
BY:  DATE: 10-30-19
Maryann Ustick, City Manager

Reviewed as to legal form and sufficiency City of Gallup Legal Department

BY:  DATE: 10-30-19
Curtis Hayes, City Attorney

MCKINLEY COUNTY

BY:  DATE: 11-14-19
Anthony Dimas Jr., County Manager

BY:  DATE: 10/12/19
Douglas W. Decker, County Attorney